



March 30, 2000

Mr. Edward R. Smith, Jr.
Special Assistant to the Superintendent
Dallas I.S.D.
3700 Ross Avenue, Box 9
Dallas, Texas 75204-5491

OR2000-1234

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134037.

The Dallas Independent School District (the "district") received a request for the KPMG Auditor's Reports. You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We believe that section 552.022(a)(1) of the Public Information Act (the "Act") mandates the release of the submitted audit reports. Section 552.022(a)(1) specifically provides that "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body" is public information and not excepted from required disclosure unless they are expressly confidential under other law or except as provided by section 552.108 of the Government Code. The district argues that the audit reports are excepted from public disclosure pursuant to section 552.111 of the Act. However, section 552.111 is a discretionary exception under the Act and is, therefore, not "other law" that makes

the audit reports confidential.¹ Consequently, as mandated by section 552.022(a)(1), the requested audits are expressly public information and must be released in their entirety to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

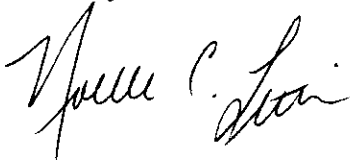
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or the interests of third parties. See, e.g., Open Records Decision Nos. 630 at 4 (1994) (governmental body may waive attorney-client privilege, section 552.107(1)), 592 at 8 (1991) (governmental body may waive section 552.104, information relating to competition or bidding), 549 at 6 (1990) (governmental body may waive informer's privilege), 522 at 4 (1989) (discretionary exceptions in general). Discretionary exceptions, therefore, do not constitute "other law" that makes information confidential.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Noelle C. Letteri". The signature is fluid and cursive, with the first name "Noelle" being more prominent.

Noelle C. Letteri
Assistant Attorney General
Open Records Division

ncl/nc

Ref: ID# 134037

Encl. Submitted documents

cc: Mr. Anthony Jones
White Rocker News
3309 Courtland Place
Garland, Texas 75040
(w/o enclosures)